THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21078 OF 2006

DATED 18th OCTOBER, 2006

BETWEEN

Syed Ibrahim Hasan Kazmi @ Aslam Kazmi

… Petitioner

and

The Government of Andhra Pradesh rep.by its Principal Secretary, Revenue (UC) Department, Secretariat, Hyderabad and another.

… Respondents

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ORDER:

The petitioner, allegedly along with other eight family members, is the owner of land admeasuring Acs.4.20 guntas in survey Nos.219 and 229 (old survey No.391) situated in Shaikpet village & Mandal, Hyderabad District. The petitioner alleges that the property was in litigation. Ultimately, by reason of compromise decree in A.S.No.15 of 2005 on the file of the Court of the III Additional Chief Judge, City Civil Court, Hyderabad, the petitioner's mother Soghra Begum acquired rights and after her death, the petitioner and eight others succeeded to the property. The petitioner alleges that the declaration under Section 6(1) of the Urban Land (Ceiling & Regulation) Act, 1976 (the Act, for brevity) on 17.03.2006, which is still pending before the second respondent. It is also alleged that as the land owned by the petitioner and others is in excess of ceiling limit, all of them filed applications on 31.03.2006 under G.O.Ms.No.456, dated 29.07.2002, allegedly paying a sum of Rs.11,22,000/- each. In this writ petition, the petitioner approached for a writ of Mandamus declaring the action of the respondents in not granting exemption under the Act pursuant to the declaration filed by them as illegal and arbitrary and for a consequential direction to respondents to issue exemption under the Act.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (ULC), this Court has no manner of doubt that the writ petition is filed out of ignorance and is misconceived. Admittedly, the petitioners filed declarations under Section 6 of the Act on 17.03.2006. The same is not even taken up for enquiry by the second respondent. Even before final statement and final orders are passed by the second respondent under Sections 8(4) and 9 of the Act, the petitioners made a representation on 31.03.2006 under G.O.Ms.No.456, dated 29.07.2002. The same, at this stage, cannot be entertained. Para 3(a) of the said G.O., contains, "the exemption shall be considered in cases where the excess land already vested with Government under Section 10(3) of the Act free from all encumbrances and the excess lands that may so vest with them in future". Therefore, it is needless to point out that the benefit, if

any, under G.O.Ms.No.456, would be available to the owner of land (declarant) only when the declaration is processed and the land absolutely vests in the State under Section 10(3) of the Act.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

18.10.2006.
pln